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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,876	07/24/2003	Thomas Richard Beard		9673

EXAMINER	
BARTLEY, KENNETH	

ART UNIT	PAPER NUMBER
3693	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/625,876	BEARD ET AL.	
	Examiner	Art Unit	
	KENNETH L. BARTLEY	3693	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-44.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attachment for detailed explanation.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/JAGDISH N PATEL/
Primary Examiner, Art Unit 3693

>>1. Claim Rejection - 35 U.S.C. § 102(e) - Claims 1-4, 6-12, 14-20, 22-26, 28-34, 36-42 and 44<<

Applicant has pulled in dependent claims 2 and 4 into claim 1 and 10 and 12 into claim 9. Applicant argues that Brumfield is static where Applicant's graphs are on-going and dynamic. However, the features upon which the Applicant relies, "on-going" and "dynamic" are not in the claim. Further, as cited on page 12 of the Final Office Action, Brumfield et al. teaches:

"Color, for example, may be used to differentiate times within the set period of time. Of course, the LTQ may alternatively be illustrated numerically and, if desired, only the most recent LTQ may be displayed instead of a series of LTQs over a set period of time." (col. 15, lines 28-32) This teaches different times indicated by color."

Applicant appears to be arguing only the most recent LTQ is displayed, which is not the case as a series over time is displayed.

Applicant continues that Brumfield adds the individual transactions together and then displays them. Yet from above we see that Brumfield provides a "series of LTQ's" differentiated by time using color.

>>Unlike the claimed invention, where graphical representations are displayed as on-going, dynamic updating of separate transactions, Brumfield discloses a static histogram where desired transactions are displayed as quantities.<<

Applicant continues that Brumfield adds the individual transactions together and then displays them. Yet from above we see that Brumfield provides a "series of LTQ's" differentiated by time using color. The Examiner respectfully maintains that Brumfield teaches "graphical representations positioned relative to the other graphical representations based on the time value in each data set," and cites Fig. 4 of Brumfield that shows two or more graphical representations relative to each other (ref. 452) and over time (see above regarding series of LTQs).<<

>>In conclusion, Applicants respectfully submit that the 35 U.S.C. § 103(a) rejection of claims 1, 3, 5-9, 11, 13-16, 18-20 and 24-26 have been overcome.<<

Based on the above response, the Examiner respectfully maintains the rejection.

>>2. Claim Rejections - 35 U.S.C. § 103(a) - Claims 5, 13, 21, 27, 35 and 43<<

>>Applicants note that claims 5 and 13 are dependent claims that depend from independent claims 1 and 9, respectively. In light of the arguments submitted in Section 1 of this response, Applicants respectfully submit that dependent claims 5 and 13 are not obvious in view of the combination of Brumfield and Burns because these references, alone or in combination, fail to teach or suggest all the claimed limitations. Moreover, these dependent claims further recite and define the claimed invention, and thus, are independently patentable.<<

Applicant argues that claims 5 and 13 are now different based on pulling dependent claims into claims 1 and 9. This would require further search and consideration by the Examiner. Further, the Examiner points out that Burns was combined with Brumfield to teach color based on transaction identifier. However, by amending the independent claims, this changes the dependent claims as indicated by applicant and this also requires further consideration and possible search.

In reviewing the above arguments, the Examiner respectfully maintains the prior rejections.